

UTILITY ORDINANCE  
DIVISION 200  
GENERAL PRETREATMENT REGULATIONS

ENVIRONMENTAL SERVICES UTILITY  
CITY OF KANKAKEE, ILLINOIS

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AN ORDINANCE  
AMENDING THE MUNICIPAL CODE  
OF THE  
CITY OF KANKAKEE, ILLINOIS

**ARTICLE IV**

**GENERAL PRETREATMENT REGULATIONS**

**DIVISION 201 - GENERAL PROVISIONS**

**Sec. 34-201.1 Purpose and Policy**

This article sets forth uniform requirements for direct and indirect contributors to the sanitary sewer system for the City of Kankakee, Illinois and POTW, and enables the City to comply with applicable state and federal laws required by the Clean Water Act of 1977 (Public Law 95-217) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this Article are to:

- A. Prevent the introduction of pollutants into the sanitary sewer system, which will interfere with the operation of the sanitary system or POTW or contaminate the resulting sludge.
- B. Prevent the introduction of pollutants into the sanitary sewer system or POTW, which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system.
- C. Improve the opportunity to recycle and reclaim wastewater sludge from the POTW.
- D. Provide for equitable distribution of the operation and maintenance costs incurred by the Environmental Services Utility in implementing the industrial pretreatment program.

This Article provides for the regulation of direct and indirect contributors to the sanitary sewer system and POTW through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This Article shall apply to the City of Kankakee and to persons outside the City who are by contract or agreement with the City users of the Environmental Services Utility sanitary sewers.

Except as otherwise provided herein, the Superintendent of the Environmental Services Utility shall administer, implement, and enforce the provisions of this Article.

### **Sec. 34-201.2 Administration**

Except as otherwise provided herein, the Superintendent shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other Environmental Services Utility personnel.

### **Sec. 34-201.3 Definitions**

Unless the text specifically indicates otherwise, the following terms and phrases, as used in this Article shall have the meanings hereinafter designated:

1. Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251, et seq.
2. Applicable Pretreatment Standard(s). For any specific pollutant(s), the more stringent of the following standards:
  - a. POTW's prohibitive discharge standards.
  - b. POTW's specific limitations on discharge.
  - c. State pretreatment standards.
  - d. National categorical pretreatment standards.
3. Approval Authority. The Director in an NPDES state with an approved state pretreatment program and the appropriate Regional Administrator in a non-NPDES state or a NPDES state without an approved state pretreatment program.
4. Approved POTW Pretreatment Program. A program administered by a POTW that meets the criteria established in 40 CFR, Part 403, and which has been approved by a Regional Administrator or State Director in accordance with Section 403.11 or 40 CFR, Part 403.
5. Authorized Representative of Industrial User. An authorized representative of an industrial user may be:
  - a. A principal executive officer of at least the level of vice president, if the industrial user is a corporation.
  - b. A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively.
  - c. A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from

which the indirect discharge originates and only if the authorization is made in writing to the Utility by a person described above.

6. Baseline Report. Means that report required by 40 CFR Section 403.12(b)(1-7).
7. Billable BOD<sub>5</sub><sup>1</sup>. The amount of BOD<sub>5</sub> in a user's wastewater discharged to the Utility in pounds of BOD<sub>5</sub> calculated using the billable flow and concentration of BOD<sub>5</sub> in the wastewater as determined by the Utility.
8. Billable Flow<sup>1</sup>. Either (1) a user's water usage from all sources, or (2) the amount of wastewater discharged to the Utility, as determined by the Utility.
9. Billable Suspended Solids. The amount of suspended solids in a user's wastewater discharged to the Utility in pounds of suspended solids calculated using the billable flow and concentration of suspended solids in the wastewater as determined by the Utility.
10. Biochemical Oxygen Demand (BOD). The quantity of oxygen, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory procedures as described in Standard Methods.
11. BOD<sub>5</sub> (Five Day Biochemical Oxygen Demand)<sup>1</sup>. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures five days at 20°C expressed in terms of weight and concentration (milligrams per liter mg/l) as prescribed in Part 507 of Standard Methods.
12. Building Drain. That part of the lowest horizontal piping of the drainage system which receives the discharge from soil, waste, and other drainage pipes within the walls of the building and conveys it to the building sewer that begins five feet outside the inner face of the building wall.
13. Building Sewer<sup>1</sup>. A sewer which is an extension of the building drain and which conveys wastewater from the premises of a user to the Utility system.
14. Categorical Industry. An industrial user which is subject to a National Categorical Pretreatment Standard.
15. Categorical Standards or Categorical Pretreatment Standards. (See National Categorical Pretreatment Standards).
16. Chemical Oxygen Demand (COD)<sup>1</sup>. The quantity of oxygen utilized in the chemical oxidation of organic matter under standard laboratory procedures expressed in terms of weight and concentration (milligrams per liter {mg/l}) as prescribed in Part 508 of Standard Methods.
17. City. The City of Kankakee.
18. Combined Sewer. A sewer that is designed as a sanitary sewer and a storm sewer.

19. Combined Waste Stream Formula. Means the formula as found in 40 CFR Section 403.6(e).
20. Commercial User. A user engaged in retail or wholesale trades or the transaction of business involving the purchase or sale of goods or merchandise or involving the provision of services combined with the purchase or sale of goods or merchandise, whether for profit or not for profit, the commercial users class shall also include entities such as fraternal organization, professional organizations, labor unions and recreational facilities other than park districts, and those governmentally owned or tax supported.
21. Compatible Pollutant. Biochemical Oxygen Demand (BOD), Chemical Oxygen Demand (COD), Fats-Oils-Greases (FOG), suspended solids, Ph, and fecal coliform bacteria; plus any additional pollutants identified in the POTW's NPDES permit, where the POTW treats such pollutants and, in fact, does treat such pollutants to the degrees required by the POTW's NPDES permit.
22. Composite Sample<sup>1</sup>. A composite sample shall consist of the combination of three (3) or more grab samples collected within a 24 hour period, with each grab sample being taken at not less than 1 hour intervals.
23. Control Authority. The term "control authority" shall mean:
- a. The POTW if the POTW's submission for its pretreatment program has been approved; or
  - b. The City of Kankakee if the City pretreatment program has been approved.
24. Control Manhole. A structure located on a site from which industrial wastes are discharged. Where feasible, the manhole shall have an interior drop. The purpose of a "control manhole" is to provide access for the Utility representative to sample and/or measure discharges.
25. Cooling water. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.
26. Direct Discharge. The discharge of treated or untreated wastewater directly to the waters of the State of Illinois.
27. Director<sup>1</sup>. The Director of the Illinois Environmental Protection Agency.
28. Domestic User. A user who discharges only domestic wastewater.
29. Domestic Wastewater. Wastewater having a normal strength of 200 mg/l of BOD and 250 mg/l of suspended solids or less. Domestic wastewater shall be interchangeable with sewage.

30. Enforcement Division Director. One of the Directors of the Enforcement Divisions within the regional offices of the USEPA or this person's designated representative. Now called Water Division Director in USEPA Region V.
31. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
32. Fats, Oils, or Greases (FOG). The quantity of freon extractable matter expressed in terms of weight and concentration (milligrams per liter (mg/l)) as prescribed in Part 503 of Standard Methods.
33. Fecal Coliform. Any number of organisms common to the intestinal tract of man and animals whose presence in sanitary sewage is an indicator of pollution.
34. Flow. A moving volume of wastewater.
35. Flow Rate. A moving volume of wastewater per a unit of time.
36. Garbage. Solid wastes from the domestic and commercial preparation, cooking, and dispensing, of food; and from the commercial handling, storage, and sale of produce.
37. General Pretreatment Regulations. 40 CFR, Part 403 entitled "General Pretreatment Regulations for Existing and New Sources," as amended.
38. Governmental User. A user involved in legislative, judicial, administrative, and regulating activities of federal, state, and local governments.
39. Grab Sample. A sample, which is taken from, a waste stream on a one time basis with no regard to the flow in the waste stream and without consideration of time.
40. Holding Tank Waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
41. Illinois Environmental Protection Agency, or IEPA. The Illinois Environmental Protection Agency, or where appropriate, the terms may also be used as a designation for the Director or other duly authorized official of said agency. Further defined as that agency or agencies of the state, any divisions thereof or successors thereto, authorized by present and subsequent acts of the legislature thereof to regulate and control matters in respect to the environment, and particularly in respect to wastewater discharge, management, maintenance, and operations of the POTW.
42. Incompatible Pollutant. All pollutants other than compatible pollutants as defined herein.



43. Indirect Discharge. The introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.

44. Industrial User<sup>1</sup>. Any non-governmental, non-residential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under one of the following divisions:

Division A.	Agriculture, Forestry and Fishing
Division B.	Mining
Division D.	Manufacturing
Division E.	Transportation, Communications, Electric, Gas, and Sanitary Services
Division I.	Services

45. Industrial Wastewater or Industrial Waste<sup>1</sup>. Any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery of processing of any natural resource as distinct from sanitary sewage.

46. Insignificant Industrial User. An industry which discharges only domestic wastewater and does not have any reasonable chance to discharge a non-domestic wastewater.

47. Institutional User. A user involved in social, religious, or education activities such as tax supported schools, libraries or park districts, private or parochial schools and churches.

48. Interference<sup>2</sup>. A discharge which, along or in conjunction with a discharge or discharges from other sources, both:

a. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

b. Therefore, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

49. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

50. Milligrams Per Liter (mg/l). A unit of the concentration of water or wastewater constituent. It is 0.001 g of the constituent in 1,000 ml of water. It has replaced the unit formerly used commonly, parts per million (ppm), to which it is approximately equivalent, in reporting the results of water and wastewater analyses.

51. National Categorical Pretreatment Standards or Federal Categorical Pretreatment Standards or Categorical Standards. Any regulation containing pollutant discharge limits promulgated by the US EPA in accordance with Section 307(b) and (c) of the Act (33 USC 1347) which applies to a specific category of industrial users.

52. National Pretreatment Standards or Pretreatment Standards. Any regulation containing pollutant discharge limits promulgated by the US EPA in accordance with Section 307(b) and (c) of the Act (33 USC 1347) which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR, Part 403.5.

53. National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Any regulation developed under the authority of Section 307(b) of the Act and 40 CFR, Part 403.5.

54. National Pollution Discharge Elimination System (NPDES) Permit. Any permit or requirement issued by the Illinois Environmental Protection Agency (IEPA), or US Environmental Protection Agency (USEPA) pursuant to the Federal Water Pollution Control Act, as amended (33 USC 1251 et seq), for the purpose of control sewage, industrial wastes, or other wastes under the authority of Section 402 of the Act.

55. Natural Outlet. Any outlet in a water course, pond, ditch, lake, or other body of surface or groundwater.

56. New Source. Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section.

a. The building structure, facility or installation is constructed at a site at which no other source is located; or

b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same size. In determining whether these are substantially independent factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

57. NPDES Permit. A permit issued to a POTW pursuant to Section 402 of the Act.

58. NPDES State. A state (as defined in 40 CFR Section 122.3) or interstate water pollution control agency with an NPDES permit program approved pursuant to Section 402(b) of the Act.

59. Non-contact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

60. Operation and Maintenance. Activities required to assure the dependable and economical function of the utility system.

a. Maintenance: Preservation of functional integrity and efficiency of equipment and structures. This includes preventive maintenance, corrective maintenance, and replacement as needed.

b. Operation: Control of the unit processes and equipment which makes the utility system. This includes financial and personnel management records, laboratory control, process control, safety and emergency operation planning.

61. Pass Through<sup>2</sup>. A discharge which exists the POTW into waters of the United States in quantities or concentrations which, along or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude of duration of a violation).

62. Permitted Wastewater Hauler Vehicle. A vehicle used for hauling wastewater and/or sludge which has been granted a permit by:

a. IEPA as a "Special Waste Hauler" vehicle for all wastewater and/or sludge other than septage; or

b. The Illinois Department of Public Health (IDPH) as a "Septage Hauler" vehicle for septage.

63. Person. The state or any agency or institution therefore, any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity, including, but not limited to, associated, commission or any interstate body, and including any officer or governing or managing body of any municipality, governmental subdivision or public or private corporation, or other entity.

64. pH<sup>1</sup>. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in standard units.
65. Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.
66. Pollution or Water Pollution. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
67. Population Equivalent (P.E.)<sup>1</sup>. 0.17 pound of five-day biochemical oxygen demand as prescribed in Standard Methods.
68. POTW. See Publicly Owned Treatment Works.
69. POTW Treatment Plant. That portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste. For purposes of this Article it is the Kankakee River Metropolitan Agency.
70. Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, or process changes, or by other means, except as prohibited by 40 CFR, Part 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR, Part 403.6(e).
71. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.
72. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards and local limits.

73. Prohibitive Discharge Standard. See National Prohibitive Discharge Standard.
74. Properly Shredded Garbage. The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch in any dimension.
75. Publicly Owned Treatment Works (POTW). A treatment works as defined by Section 212 of the Act, (33 USC 1292) which is owned by a state or a municipality. This definition includes any devices and systems used in the storage treatment, recycling and reclamation of municipal sewage, or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW. For the purposed of this ordinance, POTW shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the Environmental Services Utility, users of the sanitary sewers. This term also means the municipality, as defined in Section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works, which for this ordinance is the Kankakee River Metropolitan Agency.
76. Public Sewer. A sewer in which all owners of abutting properties have equal rights, and is controlled by the Environmental Services Utility.
77. Regional Administrator or Administrator. The Regional Administrator of USEPA Region V.
78. Replacement. Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the utility system to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
79. Residential User. A user who resides in dwelling units such as detached, semi-detached and row houses, mobile homes, apartments, and permanent multi-family dwellings.
80. Sanitary Sewer. A sewer, which carries domestic and industrial (non-domestic wastewater); and to which storm, surface and groundwater are not intentionally admitted.
81. Septage. The contents of a septic tank which serves a residential structure and to which only domestic wastewater is discharged.
82. Sewage. A combination of the water-carried wastes from residences, business building, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

83. Sewage Treatment Plant. Any arrangement of devices and structure used for treating sewage.

84. Sewage Works. All facilities for collection, pumping, treating, and disposing of sewage.

85. Sewer. A pipe or conduit for carrying sewage.

86. Shall is mandatory, May is permissive.

87. Significant Industrial User or Significant User<sup>3</sup>. Any industrial user which discharges to the POTW will be classified as one of the following categories:

#### Categorical Significant User Category

(Class C-1)

Major User - Any industrial user which discharges to the POTW and meets any of the following:

- a. Is subject to national categorical pretreatment standards.
- b. Discharges a nondomestic wastewater of 25,000 gpd or more.
- c. Contributes a wastewater which makes up 5 percent or more of the average dry weather hydraulic, organic (BOD), or solids (TSS) capacity of City.
- d. Has a reasonable potential, in the opinion of the Environmental Services Utility Superintendent, to discharge a wastewater, which would adversely affect the POTW (i.e., interference, sludge contamination, pass-through, or hazardous materials).

(Class C-2)

Minor User - Any industrial user which discharges to the POTW and meets any of the following:

- a. Is subject to national categorical pretreatment standards.
- b. Discharges a nondomestic wastewater less than 25,000 gpd.
- c. Contributes a wastewater which makes up less than 5 percent of the average dry weather hydraulic, organic (BOD), or solids (TSS) capacity of City.
- d. Does not have a reasonable potential, in the opinion of the Environmental Services Utility Superintendent, to discharge a wastewater, which would

adversely affect the POTW (i.e., interference, sludge contamination, pass-through, or hazardous materials).

#### Non-Categorical Significant Industries

(Class I-1)

Major Users - Any industrial user which discharges to the POTW and meets any of the following:

- a. Industry is not subject to national categorical pretreatment standards.
- b. Discharges a non-domestic wastewater of 25,000 gpd or more.
- c. Contributes a wastewater which makes up 5 percent or more of the average dry weather hydraulic, organic (BOD), or solids (TSS) capacity of the City.
- d. Has a reasonable potential, in the opinion of the Environmental Services Utility Superintendent, to discharge a wastewater, which would adversely affect the POTW (i.e., interference, sludge contamination, pass-through, or hazardous materials).

(Class I-2)

Minor Users - Any industrial user, which discharges to the POTW and meets any of the following:

- a. Industry is not subject to national categorical pretreatment standards.
- b. Discharges a nondomestic wastewater of less than 25,000 gpd.
- c. Contributes a wastewater, which makes up less than 5 percent of the average dry weather hydraulic, organic (BOD) or solids (TSS) capacity of City.
- d. Does not have a reasonable potential, in the opinion of the Environmental Services Utility Superintendent, to discharge a wastewater which would adversely affect the POTW, (i.e., interference, sludge contamination, pass-through or hazardous materials).

#### 88. Significant Noncompliance (SNC).

- a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

b. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS fats, oil, and grease, and 1.2 for all other pollutants except pH).

c. Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, along or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

d. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(vi)(B) of this section to halt or prevent such a discharge;

e. Failure to meet within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

f. Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

g. Failure to accurately report non-compliance;

h. Any other violation or group of violations, which the Control Authority determines, will adversely effect the operation or implementation of the local pretreatment program.

89. Significant Violation. A violation of this ordinance which remains uncorrected 45 days after notification of such noncompliance; or which is part of a pattern of noncompliance over a 12 month period; or which involves failure to accurately report noncompliance; or which resulted in the Environmental Services Utility exercising its emergency authority Section 34-205.

90. Sludge. The solids separated from the liquids during wastewater treatment processes.

91. Slug or Slug Load. Any discharge of water or wastewater which meets any of the following conditions:

a. A flow rate in excess of five times the daily average.

b. A pollutant concentration in excess of five times the daily average permitted value.



c. A combination of flow and pollutant concentration which yields a mass pollutant quantity in excess of five times the daily average permitted value.

d. Any pollutant, including oxygen demanding pollutants (BOD, etc) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.

92. Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

93. Standard Methods. The analytical procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation; and in accordance with procedures established by the Administrator pursuant to Section 304(h) of the Act and contained in 40 CFR, Part 136 and amendments thereto.

94. State. State of Illinois.

95. STORET. The national water quality data system of the US Environmental Protection Agency (US EPA).

96. Storm Sewer. A sewer designated to carry only storm waters, surface runoff, street wash waters, and drainage.

97. Storm Water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

98. Submission. Submission shall mean any of the following:

a. A request by a POTW for approval of a pretreatment program to the US EPA or a Director.

b. A request by a POTW to the US EPA or a Director for authority to revise the discharge limits in categorical Pretreatment Standards to reflect POTW pollutant removals.

c. A request to the US EPA by an NPDES state for approval of its state pretreatment program.

99. Superintendent. The Superintendent of the Environmental Services Utility is designated by the City to supervise the operation of the publicly owned utility system and

is charged with certain duties and responsibilities by this Article. The term may also be used for his duly authorized representative.

100. Surcharge. A charge in addition to the base user charge for the treatment of BOD and suspended solids discharged to a sanitary sewer that is in excess of 200 mg/l of BOD and 250 mg/l of suspended solids.

101. T. As in Cyanide-T means total.

102. Total Dissolved Solids or Total Filterable Residue. Those solids capable of passing through a standard glass fiber filter and dried to constant weight at 180°C.

103. Total Metals. The sum of the concentration of the list of metals contained in Section 34-202.4.1 of the ordinance.

104. Total Solids. The sum of total suspended solids and total dissolved solids.

105. Total, Suspended Solids, or Total Nonfilterable Solids. The total suspended matter, expressed in milligrams per liter, that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which are retained on a Reeve Angel Type 934A glass filter disc and dried to constant weight at 103°- 105°C as prescribed in Standard Methods.

106. Total Toxic Organics. The summation of quantified values greater than 0.01 milligrams per liter for the toxic organics as specified in the applicable regulations.

107. Utility System. Any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, or liquid industrial wastes used to implement Section 201 of the Act. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power, and other equipment and their appurtenances; extensions, improvement, remodeling, additions, and alterations thereof.

108. Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the US Environmental Protection Agency under the provision of Section 307(a) of the Act or other Acts.

109. Unpolluted Water. Water of quality equal to or better than the IEPA effluent criteria in effect, or water that would not cause violation of the receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facility provided.

110. Upset. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

111. Useful Life. The estimated period during which the collection system and/or utility system will be operated and shall be 25 years from the date of start-up of any wastewater facilities.

112. US EPA or US Environmental Protection Agency. The US Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

113. User. Any person who contributes, causes, or permits the contribution of wastewater into the sanitary sewers.

114. User Charge System. The system of charges levied on user to recover the user's proportionate share of the costs of operation, maintenance, and replacement on new and old wastewater collection/treatment facilities, pursuant to Sections 204(b)(1)(A) and 201(h)(2) of PL 95-217; and 40 CFR Part 35, Subpart 1 of the Federal Register, as amended.

115. Wastewater. The combination of the liquid and water carrying wastes from residences, commercial buildings, industrial plants, and institutions including polluted cooling water.

a. Domestic Wastewater means the combination of liquid and water-carried wastes discharged from toilet and other sanitary plumbing facilities.

b. Industrial Wastewater means a combination of liquid and water-carried waste, discharged from any industrial user including the wastewater from pretreatment facilities and polluted cooling water.

c. Combined Wastewater shall mean wastewater including domestic wastewater, industrial wastewater, infiltration, and inflow carried to the POTW treatment facilities by a sewer.

116. Wastewater Discharge Permit or Sewer Use Permit. The document or documents issued to significant industrial user by the City in accordance with the ordinance.

117. Wastewater Hauler or Sludge Hauler. Any person engaged in transporting wastewater or sludge as a commercial venture.

118. Water Division Director. See definition for Enforcement Division Director.

119. Watercourse. A channel in which a flow of water occurs, either continuously or intermittently.

120. Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies of accumulations of water, surface or underground, natural or artificial, public or

private, which are contained within, flow through, or border upon the state or any portion thereof.

121. Environmental Services Utility (ESU). A non-regulated public utility of the City of Kankakee.

#### **Sec. 34-201.4 Abbreviations**

The following abbreviations shall have the designated meanings:

1. BOD - Biochemical Oxygen Demand (may also mean the total biochemical oxygen demand).
2. BOD<sub>5</sub> - Five day Biochemical Oxygen Demand
3. CFR - Code of Federal Regulations. (40 CFR, Part 403 is Title 40 of the Code of Federal Regulations, Part 403)
4. COD - Chemical Oxygen Demand
5. DAF - Daily average flow
6. DMF - Daily maximum flow
7. FOG - Fats, Oils, and Greases
8. gpd - gallons per day
9. IEPA - Illinois Environmental Protection Agency
10. IU - Industrial User
11. IWS - Industrial Wastewater Survey
12. ESU - The Environmental Services Utility
13. l - Liter
14. mg - Milligrams
15. mg/l - Milligrams per liter
16. NPDES - National Pollutant Discharge Elimination System
17. POTW - Publicly Owned Treatment Works
18. RCRA - Resource Conservation and Recovery Act

19. SIC - Standard Industrial Classification
20. SWDA - Solid Waste Disposal Act, 42 USC 6901, et seq
21. TSS - Total Suspended Solids
22. TTO - Total Toxic Organics
23. USC - United States Code
24. US EPA - United States Environmental Protection Agency

## **DIVISION 202 - REGULATIONS**

### **Sec. 34-202.1 General Discharge Prohibitions**

**202.1.1** No person shall discharge or cause to be discharged any storm water, foundation drainwater, groundwater, roof runoff, surface drainage, cooling waters, or any other unpolluted water to any sanitary sewer.

**202.1.2** No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW or pass through the POTW. The following general prohibitions shall apply to all such users of the sanitary sewers whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to the sanitary sewers:

1. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious or hazardous in any other way to the POTW or sanitary sewers or to the operation of the POTW or sanitary sewers.
  - a. Pollutants which create a fire or explosion hazard in the POTW or sanitary sewers, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test method specified in 40 CFR 261.21.
  - b. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW or sanitary sewers, or at any point in the POTW or sanitary sewers, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter.
2. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or

tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or grass grinding or polishing wastes or tumbling or de-burring stones.

3. Any wastewater having a pH less than 5.0 or more than 12.5, or otherwise causing corrosive structural damage or hazard to the sanitary sewers or POTW equipment, and/or personnel of the POTW.

4. Any wastewater containing incompatible pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create an incompatible effect in the receiving waters of the POTW, or to exceed the limitation set forth in a national categorical pretreatment standard (when effective), or to exceed a limitation set forth in Section 34-202.4 of this Article IV, or to create a public nuisance. An incompatible pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

5. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastewater are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.

6. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria guidelines effecting sludge use or disposal developed pursuant to the RCRA, SWDA, the Clean Water Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

7. Any substance which will cause the POTW to violate its NPDES Permit or the receiving water quality standards.

8. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the POTW's NPDES permit.

9. Any wastewater which singly or by interaction with other wastes produces a residual temperature at the introduction into the POTW treatment plant in excess of 40°C (104°F). In any case, an industrial user will limit the temperature of its discharge to a maximum of 65°C (149°F).

10. Any pollutants, including compatible pollutants released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall slug loads be discharged.

11. Any wastewater containing BOD, total solids, or suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the POTW; provided however, that a User may be permitted by specific, written agreement with the Environmental Services Utility, which agreement to discharge such BOD or TSS may provide for special charges, payments or provisions for treating and testing equipment.
12. Any wastewaters containing excessive amounts of fat, wax, grease or oils, whether emulsified or not; or containing substances which may solidify or become discernibly viscous at temperatures between 32°F (0°C) and 149°F (65°C) unless specifically permitted otherwise.
  - a. Petroleum oil, nonbiodegradeable cutting oil or products of mineral oil origin, in amounts that will cause interference or pass through.
13. Wastewater containing inert suspended solids (such as, but not limited to, Fuller earth, lime slurries, and lime residues) or dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) in such quantities that they would cause interference to the sanitary sewers or POTW.
14. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by state or federal regulations.
15. Any discharge exceed the Standards established in 35 Illinois Administrative Code 307.
16. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
17. Trucked or hauled pollutants, except at discharge points designated by the Superintendent in accordance with the EPA regulations.
18. Sludge, screenings, or other residues from the pretreatment of industrial wastes.
19. Medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit.
20. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
21. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW.
22. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted wastewater, unless specifically authorized by the Superintendent.

23. Pollutants, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

24. Bulk, expired, outdated, or concentrated prescription or non-prescription drugs.

25. Hazardous waste pharmaceuticals or DEA controlled substances to the POTW by a healthcare facility or reverse distributor pursuant to 40 CFR Section 266.505. (Ord. 2019-35, 7-15-19)

**202.1.3** When the Superintendent determines that a user is contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW or pass through the POTW, the Superintendent shall:

1. Advise the user of the impact of the contribution on the POTW.
2. Develop effluent limitations for the user to correct the interference with or pass through the POTW.

**Sec. 34-202.2 Incorporation of National Categorical Pretreatment Standards**

Upon the promulgation of the National Categorical Pretreatment Standard (NCPS) for a particular User, the said standard, if more stringent than the limitations imposed under this ordinance for sources in that category, shall, when effective, immediately supersede the limitations and conditions imposed under this ordinance. The Superintendent shall notify all known affected Users of the applicable reporting requirements under 40 CFR Section 403.12.

**Sec. 34-202.3 National Categorical Pretreatment Standards**

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

1. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent shall impose an alternate limit using the combined wastewater formula in 40 CFR 403.6(e).
3. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.



4. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

**Sec. 34-202.4 Specific Pollutant Limitations**

**202.4.1** Discharges from each separate discharge of a User, as measured under the provisions of this ordinance, shall not contain in excess of the following concentrations based upon instantaneous maximum allowable discharge.

<u>MILLIGRAMS PER LITER</u>	<u>CONSTITUENT</u>	<u>STORET NUMBER</u>
5.0 – 12.0	pH	
0.131	Cadmium	01027
0.33	Chromium (Hexavalent)	01032
2.22	Copper	01042
0.75	Cyanide	00720
1.53	Lead	01051
2.00	Molybdenum	01062
0.83	Nickel	01067
5.11	Zinc	01092
0.0010	Mercury	71900
1.59	Silver	01077

Compliance with the provisions of this Section 34-202.4.1 shall be required no later than 365 days following the effective date of this ordinance.

**202.4.2<sup>1</sup>** Concentrations apply at the point where the industrial waste is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. At his discretion, the Superintendent may impose mass limitations in addition to or in place of the concentration based limitations above.

**Sec. 34-202.5 Requirements**

In any case, the most stringent requirement and limitation of the following shall apply:

1. Federal discharge standards and national categorical pretreatment standards as promulgated in federal legislation, rules and regulations including, but not limited to, the Act (PL 95-217), US EPA "General Pretreatment Regulations for Existing and New Sources of Pollution" (40 CFR Part 403), and categorical pretreatment regulations for various industrial categories (40 CFR Parts 410, 413, 414, 415, 419, 420, 421, 425, 429, 430, 433, 434, 439, 440, 444, 455, 463, 465, 466, 467, 468, 469, and 471).
2. State discharge standards as promulgated in state legislation, rules, and regulations including, but not limited to "Title 35: Environmental Protection, Subtitle C: Water Pollution Control Board."

3. Discharge standards contained in this ordinance.

**Sec. 34-202.6 Environmental Services Utility 's Right of Revision**

The Environmental Services Utility reserves the right to establish by ordinance or in wastewater discharge permits more stringent limitations or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in Section 34-201.1 of this Article.

**Sec. 34-202.7 Dilution**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless authorized by an applicable pretreatment standard or requirement. The Superintendent may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

**Sec. 34-202.8 Variances**

Users seeking variances from Section 34-202.4 of the Article may petition the Environmental Services Utility for variation from such standards in accordance with the procedures set forth in Section 34-205.5 of this Article.

**Sec. 34-202.9 Spill Containment**

**202.9.1 Accidental Discharges** Each significant industrial user having the ability to cause interference with the POTW or to violate the regulatory provisions of this Article shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's own cost and expense. All significant industrial users whose wastewater includes or could include compatible or incompatible pollutants in amounts great enough to cause interference with the POTW must have detailed plans on file with the Utility showing facilities and operating procedures to provide this protection. Plans shall be approved by the Utility before users shall complete such a plan by no later than 190 days following the effective date of this ordinance. NO user who commences contribution to or could contribute such pollutants to the POTW after the effective date of this Article shall be permitted to introduce pollutants into the system until accidental discharge facilities and procedures have been approved by the Utility and installed by the User.

Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this Article.

**202.9.2 Immediate Notification** In the case of an accidental or deliberate discharge of compatible or incompatible pollutants, which cause interference at the POTW or violate requirements of this ordinance, it shall be the responsibility of the Industrial User to immediately telephone and notify the Environmental Services Utility of the incident. The notification shall include name of caller, location and time of discharge, type of wastewater, concentration, volume, and corrective action taken.

**202.9.3 Written Report** Within five (5) days following such an accidental or deliberate discharge the Industrial User shall submit to the Superintendent a detailed written report on forms to be provided by the Environmental Services Utility, describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Follow up reports may be required by the Environmental Services Utility as needed. Such report, or reports, shall not relieve the Industrial User of any expense, loss, damage or other liability which may be incurred as a result of damage or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such report relieve the user of any fines, civil penalties, or other liability which may be imposed by the ordinance or otherwise. Failure to report accidental or deliberate discharges may, in addition to any other remedies available to the Environmental Services Utility; result in the revocation of the discharges wastewater discharge permit.

**202.9.4 Production Control** The Industrial User shall control production or all discharges to the extent necessary to maintain compliance with all applicable regulations upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

**202.9.5 Notice to Employees** A notice in English and the language of common use shall be permanently posted on the Industrial User's bulletin board or other prominent place advising employees whom to call in the event of a discharge of a prohibitive material. Employers shall insure that all employees who are in a position to cause, discover, or observe such an accidental discharge is advised of the emergency notification procedure.

**202.9.6 Additional Remedies** In addition to remedies available to the Utility set forth elsewhere in this ordinance, if the Utility is fined by the IEPA or US EPA for violation of the POTW's NPDES permit or violation of water quality standards as the result of an industrial spill or intentional slug discharge of a compatible or incompatible pollutant, then the fine, including all Utility legal, sampling, analytical testing, and any other related costs shall be charged to the responsible industry. Such charge shall be in addition to, and not in lieu of, any other remedies the Utility may have under this ordinance, statutes, regulations, at law or in equity.

**202.9.7 Accidental Discharge/Slug Control Plans** At least once every two (2) years, the Superintendent shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Superintendent may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Superintendent may develop such a plan for every user. An accidental discharge/slug control plan shall address, at a minimum, the following:

1. Description of discharge practices, including non routine batch discharges;
2. Description of stored chemicals;
3. Procedures for immediately notifying the Superintendent of any accidental or slug discharge, as required by Section 202.9.2 and 204.17.5 of this ordinance; and

4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

**202.10 Tenant Responsibility** Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this ordinance.

**202.11 Hauled Wastewater**

1. Septic tank waste may be accepted into the POTW only at a designated receiving structure within the treatment plant area and at such times as are established by the POTW. Such waste shall not violate Section 202 of this ordinance or any other requirements established by the City. The Superintendent shall require septic tank waste haulers to obtain waste-hauler waste permits and to abide the POTW's waste Hauler Guidelines.
2. The discharge of hauled industrial wastes requires prior approval and a wastewater discharge permit. The Superintendent shall require generators of hauled industrial waste to obtain the wastewater discharge permit. The Superintendent also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
3. Industrial waste haulers shall discharge loads only at locations designated by the POTW. The POTW may collect samples of each hauled load to ensure compliance with applicable standards. The Superintendent may require the industrial waste hauler/generator to provide a waste analysis of any load prior to discharge.
4. Industrial waste haulers must provide a waste-tracking form (IL Uniform Non-hazardous Waste Manifest) for every load.

**DIVISION 203 - FEES**

**Sec. 34-203.1 Purposes** The purpose of Charges and Fees is to provide cost recovery from the industrial users of the POTW for the implementation of the program established in this Article. The applicable charges or fees shall be set forth in the Schedule of Charges and Fees to be prepared annually by the Superintendent and approved by the City Council. All significant industrial users shall apply for a wastewater discharge permit.

**Sec. 34-203.2 Schedules of Charges and Fees**

1. Administrative Fees. The City will charge the significant industrial users of the POTW for administrative costs associated with permitting, inspections, reporting and record keeping tasks as required by regulation. These fees will be as follows:

a. Categorical Significant Users:

1. Class C-1 (greater than 25,000 gpd)  
\$1,000/year
2. Class C-2 (less than 25,000 gpd)\$500/year

b. Non-Categorical Significant Users:

1. Class I-1 (greater than 25,000 gpd)  
\$500/year
2. Class I-2 (less than 25,000 gpd)  
\$250/year

c. Manifested Waste Dischargers  
\$1,000/year

d. Groundwater Remediation Projects  
As established by service agreements with discharger

These fees are payable in annual, quarterly or monthly installments.

\*The above administrative fees are doubled during periods when the subject user is in "Significant Noncompliance" status.

2. Sampling Fees. The City will charge significant industrial users for personnel and equipment use, repair and replacement costs associated with sample collection for compliance monitoring as required by regulation. These charges shall be as follows:

- a. Standard Automatic Sampler @ \$150/day
- b. Toxic Sampler (Automatic) @ \$200/day
- c. Volatile Organic Chemical (VOC) Sampling @ \$25/day
- d. Sample Pick-up & handling @ \$25/day  
(without automatic sampler)

3. Laboratory Analysis Charge. The Environmental Services Utility will assess significant industrial users a laboratory analysis charge to recover Utility's expense for analyzing the industrial wastewater discharge samples for specific pollutants. The laboratory analysis charge is \$15 per metal per analysis and \$30 per cyanide analysis. The metals subject to this charge are those defined in Section 34-202.4.1.

4. Additional costs will be charged to industrial users on a case by case basis for the following items:

- a. Fees for reviewing accidental discharge procedures and construction;
- b. Fees for filing appeals;
- c. Fees for consistent removal (by the POTW) of pollutants otherwise subject to categorical pretreatment standards;
- d. Other fees as the Environmental Services Utility may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters caused by this Article and are separate from and additional to all other fees chargeable by the Environmental Services Utility.

## **DIVISION 204 - PERMITS AND ADMINISTRATION**

**Sec. 34-204.1 Wastewater Dischargers** It shall be unlawful for any significant industrial user to discharge without a NPDES or Environmental Services Utility permit to any natural outlet within the City of Kankakee, or in any area under the jurisdiction of the City of Kankakee, and/or to the POTW any wastewater except as authorized by the Superintendent in accordance with the provisions of this Article.

**Sec. 34-204.2 Wastewater Surveys** When requested by the Superintendent a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of the ordinance.

### **Sec. 34-204.3 Wastewater Discharge Permit Requirement**

1. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Superintendent, except that a significant industrial user that has filed a timely application pursuant to Section 4.3 of this ordinance may continue to discharge for the time period specified therein.
2. The Superintendent may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
3. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Division 205 and 206 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State and local law.
4. The Utility will be responsible for the administration of processing wastewater discharge permits and applications.

### **Sec. 34-204.4 Wastewater Discharge Permitting: Existing Connections**

Any user required to obtain a wastewater discharge permit, who has not previously had one, who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within 90 days after said date, apply to the Superintendent for a wastewater discharge permit in accordance with Section 34-204.06 of this ordinance, and shall not cause or allow discharges to the POTW to continue after 90 days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Superintendent.

#### **Sec. 34-204.5 Wastewater Discharge Permitting: New Connections**

Any user required to obtain a wastewater discharge permit who proposes to begin or re-commence discharging to the POTW must obtain such permit prior to the beginning or re-commencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 34-204.06 of this ordinance, must be filed 90 days prior to the date upon which any discharge will begin or re-commence.

#### **Sec. 34-204.6 Wastewater Discharge Permit Application Contents**

In order to be considered for a wastewater discharge permit, all industrial users required to have a wastewater discharge permit must submit the information required by Section 204.03.2 of this ordinance. The Superintendent shall approve a form to be used as a permit application. In addition, the following information may be requested:

1. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.
2. Number and type of employees, hours of operation, and proposed or actual hours of operation of the industrial user.
3. Each product produced by type, amount, process or processes, and rate of production.
4. Type and amount of raw materials processed (average and maximum per day).
5. The site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location and elevation, and all points of discharge.
6. Time and duration of the discharge.
7. Any other information as may be deemed necessary by the Superintendent to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the industrial user for revision.

#### **Sec. 34-204.7 Application Signatories and Certification**

All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

#### **Sec. 34-204.8 Wastewater Discharge Permit Decisions**

The Superintendent will evaluate the data furnished by the industrial user and may require additional information. Within ninety (90) days of receipt of a complete wastewater discharge permit application, the Superintendent will determine whether or not to issue a wastewater discharge permit. If no determination is made within this time period, the application will be deemed denied. The Superintendent may deny any application for a wastewater discharge permit.

#### **Sec. 34-204.9 Wastewater Discharge Permit Issuance Process**

**204.9.1** Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Superintendent to prevent pass through or interference, protect the quality of the water body receiving the POTW's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the POTW.

1. Wastewater discharge permits must contain the following conditions:
  - a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years.
  - b. A statement that the wastewater discharge permit is nontransferable without prior notification to, and approval from the City, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
  - c. Effluent limits applicable to the user based on applicable standards in Federal, State and local law.
  - d. Self monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
  - e. Statement of applicable, civil, criminal and administrative penalties for violation of pretreatment standards and requirements, and any applicable



compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

2. Wastewater discharge permits may contain, but need not be limited to the following:

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
- b. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
- c. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW.
- d. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.
- e. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
- f. The unit charge or schedule of industrial user charges and fees for the management of the wastewater discharged to the sanitary sewers.
- g. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
- h. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit.
- i. Other conditions as deemed appropriate by the Superintendent to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

**204.10 IEPA Permit Requirements** Nothing in this ordinance shall exempt or in any way relieve an industrial user from obtaining construction and operating permits for pretreatment facilities from IEPA pursuant to Title 35: Environmental Protection, Subtitle C: Water Pollution, Chapter 1: Pollution Control Board, Part 309, Subpart B of the State of Illinois Rules and Regulations.

**204.11 Wastewater Discharge Permit Appeals** Any person including the industrial user, may petition the City to reconsider the terms of a wastewater discharge permit within sixty (60) days of its issuance.

1. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
2. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
3. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
4. If the City fails to act within sixty (60) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative action for purposes of judicial review.
5. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the appropriate court for proper jurisdiction within appropriate state statutes of limitations.

**204.12 Wastewater Discharge Permit Modification** The Superintendent may modify the wastewater discharge permit for good cause including, but not limited to, the following:

1. To incorporate any new or revised Federal, State or local pretreatment standards or requirements.
2. To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.
3. A change in the POTW requires either a temporary or permanent reduction or elimination of the authorized discharge.
4. Information indicating that the permitted discharge poses a threat to the City's sanitary sewers, City's personnel, POTW or the receiving waters.
5. Violation of any terms or conditions of the wastewater discharge permit.
6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
7. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.
8. To correct typographical or other errors in the wastewater discharge permit.

The filling of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

**204.13 Wastewater Discharge Permit Transfer** Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least thirty (30) days advance notice to the Superintendent and the Superintendent approves the wastewater discharge permit transfer. The notice to the Superintendent must include a written certification by the new owner and/or operator which:

1. States that the new owner and/or operator have no immediate intent to change the facility's operations and processes.
2. Identifies the specific date on which the transfer is to occur.
3. Acknowledges full responsibility for complying with the existing wastewater discharge permit. Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable on the date of facility transfer.

**204.14 Change in Conditions** In the event the type, quality or volume of wastewater from the property for which a discharge permit was previously granted is expected to materially and substantially change as reasonably determined by the permittee or the ESU, the permittee shall give a thirty (30) day notice in writing to the ESU and shall make a new application to the ESU prior to said change, in the same manner and form as originally made, provided that information previously submitted and unchanged need not be resubmitted by permittee. No permittee shall materially and substantially change the type, quality or volume of its wastewater beyond that allowed by its permit without prior approval of the Environmental Services Utility.

**204.15 Permits Duration** Permits shall be issued for a specified time period, not to exceed five years. The user shall apply for permit to be reissued a minimum of 180 days prior to the expiration of the user's existing permit. Within 90 days of notification, the user shall apply, on a form provided by the POTW, for the permit to be reissued. The terms and conditions of the permit may be subject to modification by the Environmental Services Utility during the term of the permit as limitations or requirements identified in Section 202 are modified or as other just causes exist. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

**204.16 Plans and Specifications** Detailed plans and specifications prepared by an Illinois registered professional engineer, of the pretreatment facilities proposed to be constructed shall be submitted to the Environmental Services Utility for review and must be acceptable to the Environmental Services Utility before construction of the facility is commenced. The review of such plans shall in no way relieve the User from the responsibility of modifying its facility as necessary to comply with this ordinance. Within a reasonable time after the completion of the wastewater treatment facility, the User shall furnish its operations and maintenance procedures for the Environmental Services Utility to review.

## **Sec. 34-204.17 Reporting Requirements for Permittee**

**204.17.1 Baseline Monitoring Reports** 1. Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the Environmental Services Utility a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Environmental Services Utility a report which contains the information listed in paragraph B, below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

2. The industrial user shall submit the information required by this section including:

a. Identifying Information. The name and address of the facility including the name of the operator and owners.

b. Environmental Permits. A list of any environmental control permits held by or for the facility.

c. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

d. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).

e. Measurement of Pollutants.

1. Identify the categorical pretreatment standards applicable to each regulated process.

2. Submit the results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the Environmental Services Utility, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.10.

3. Sampling must be performed in accordance with procedures set out in Section 6.11.

f. Certification. A statement reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis-- and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

g. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this schedule must meet the requirements set out in Section 204.17.9 of this ordinance.

h. All baseline monitoring reports must be signed and certified in accordance with Section 204.07.

#### **204.17.2 Reports on Compliance with Categorical Pretreatment Standard Deadline**

Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, within 45 days following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and pretreatment requirements shall submit to the Superintendent, on forms provided by the Environmental Services Utility, a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such pretreatment standards and requirements. The report shall state whether the applicable pretreatment standards and requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards and pretreatment requirements. This statement shall be signed by an authorized representative of the user, and certified to by a qualified professional as defined in General Pretreatment Regulations. All compliance reports must be signed and certified in accordance with Section 204.07.

**204.17.3 Periodic Compliance Reports**<sup>1</sup>. Any user subject to a pretreatment standard, after the compliance date of such applicable pretreatment standards, or, in the case of a new source, after commencement of the discharge into the POTW shall submit to the Superintendent during the months of July and January, unless required more frequently in the categorical pretreatment standard or by pollutants in the effluent which are limited by such applicable pretreatment standards. In addition, this report shall include a record of all measured or estimated average and maximum daily flows for the reporting period. At the discretion of the Superintendent and in consideration of such factors as local high and low flow rates, holidays, budget cycles, etc., the Superintendent may agree to alter the months during which the above reports are to be submitted.

a. Exceptions. Exception to this reporting requirement would be for any significant user, who does not perform self-monitoring on their discharge. Instead the Environmental Services Utility performs the service of monitoring their discharge at least twice a year. A compliance report is only required if the significant user is regulated by mass based limitations.

2. The Superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or pretreatment requirements or in other cases where the imposition of mass limitations is appropriate. In such cases, the report required by subparagraph (1) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Superintendent, of pollutants contained therein which are limited by the applicable categorical pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standards. All analyses shall be performed in accordance with procedures established by the Administrator pursuant to Section 304(h) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the Superintendent. Sampling shall be performed in accordance with the techniques approved by the Superintendent. Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April, 1977," analytical procedures approved by the Superintendent.

**204.17.4 Late Filing Charge**<sup>2</sup> Any user subject to the reporting requirements set for the in the General Pretreatment Regulations 40 CFR 403 or their industrial wastewater discharge permit as issued in accordance with Section 204.2 of this Ordinance, must file their report within 30 days after receipt of the proper reporting form and sampling data from the Environmental Services Utility. Extensions of this time period may be granted by the Superintendent upon written request by the user. Failure to comply with this provision will result in a fine of \$100. Additional fines will be issued at 30 day intervals until the report is properly filed or a time extension is granted by the Superintendent. Repeated or continued failure to comply with this provision is grounds for enforcement.

#### **204.17.5 Report of Potential Problems**

1. In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in Section 202.1 of this ordinance), it is the responsibility of the industrial user to immediately telephone and notify the Environmental Services Utility of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.

The following procedures shall be followed:

- a. Accidental discharges that contain pollutants that exceed the permitted limit by 10 x shall be reported.
  - b. Accidental discharges that may cause permanent damage to the collection or treatment system shall be reported immediately. These discharges include, but are not limited to, pollutants that may cause a fire or explosion hazard in the collection system, pH of 2 or less or 12.5 or greater for longer than 10 minutes, any pollutant that will increase the concentration in the influent to the POTW enough to have a decrease in treatment efficiency.
  - c. During normal business hours, (7 AM - 3:30 PM) the permittee shall notify the Environmental Services Utility by telephone . At all other times, the ESU should be notified by leaving a message with the Environmental Services Utility's 24 hour Dispatch after 3:30 PM, Monday - Friday, or weekend and holidays. The notification shall include the name of the person making the call, the telephone number where said person can be reached, location of discharge, date and time thereof, type of waste, including concentration, and volume and corrective action taken.
  - d. The party making the call shall be available by phone for a minimum of fifteen minutes after the notification is made. This is so that a member of the Environmental Services Utility may contact the industry representative for more information, if necessary.
2. Within five (5) days following such discharge, the industrial user shall, unless waived by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this ordinance.
  3. Failure to notify the Environmental Services Utility of potential problem discharges shall be deemed a separate violation of this ordinance4. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause or suffer such a discharge to occur, are advised of the emergency notification procedure.

**204.17.6 Reports from Nonsignificant Industrial Users** All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall

provide appropriate reports to the Environmental Services Utility as the Superintendent may require.

**204.17.7 Notice of Violation/Repeat Sampling and Reporting** If sampling performed by an industrial user indicates a violation, the industrial user must notify the Control Authority within 24 hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Environmental Services Utility within 30 days after becoming aware of the violation. The industrial user is not required to resample if the Environmental Services Utility performs monitoring at the industrial user's at least once a month, or if the Environmental Services Utility performs sampling between the industrial user's initial sampling and when the industrial user receives the results of this sampling.

**204.17.8 Notification of the Discharge of Hazardous Waste**

1. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 204.17.5 of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 204.17.1, 204.17.2, and 204.17.3.

2. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

3. In the case of any new regulations under Section 3001 of the RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Superintendent the EPA Regional Waste Management Waste Division Director, the State hazardous waste authorities of the



discharge of such substance within ninety (90) days of the effective date of such regulations.

4. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

5. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

**204.17.9 Compliance Schedule Progress Report** The following conditions shall apply to the schedule required by 204.17.2(g). The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events including hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No increment referred to above shall exceed nine (9) months. The industrial user shall submit a progress report to the Superintendent no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate the steps being taken by the industrial user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.

**204.18 Analytical Requirements** All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

**204.18.1 Sample Collection**

1. Except as indicated in Section B, below, the user must collect wastewater samples using composite collection techniques. In the event composite sampling is infeasible, the Superintendent may authorize the use of a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

2. Samples for oil and grease, temperature, pH, cyanide, phenol, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

**204.18.2 Timing** Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

**204.18.3 Record Keeping** Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City or where the user has been specifically notified of a longer retention period by Superintendent.

#### **204.19 Monitoring Facilities**

**204.19.1 Provision and Location** The Environmental Services Utility shall be providing and operating at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. Where required by the Environmental Services Utility, additional control manholes or sampling chambers shall be provided at the end of each industrial process within an Industrial User's facility suitable for the determination of compliance with Pretreatment Standards. The monitoring facility should normally be situated on the user's premises, but the Environmental Services Utility may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping, parked vehicles, or other activities of the User.

#### **204.19.2 Sampling Chamber**

1. Whenever required by the Environmental Services Utility, the owner of any property serviced by a building sewer carrying non-residential wastewater shall install a large manhole or sampling chamber for each separate discharge in the building sewer in accordance with plans and specifications approved by the Superintendent, installed and maintained at all times at user's expense, which shall have ample room in each sampling chamber to permit the Environmental Services Utility to take accurate composite samples for analysis. The chamber shall be safely, easily and independently accessible to authorized representatives of the Environmental Services Utility.
2. Each sampling chamber shall contain a flow measuring device which is approved by the Environmental Services Utility with a recording and totalizing register for measurement of the liquid quantity; or at the discretion of the Environmental Services Utility the metered water supply to the industrial plant may be used as the liquid quantity where it is substantiated to the Superintendent that the metered water supply and waste quantities are approximately the same, or where a measurable adjustment agreed to by the Environmental Services Utility is made in the metered water supply to determine the liquid waste quantity.
3. When required, samples shall be taken every hour or half hour, as determined by the Environmental Services Utility and properly refrigerated and preserved in accordance

with Standard Methods and shall be composited in proportion to the flow for a representative 24 hour sample. Such sampling shall be done as prescribed by the Environmental Services Utility.

4. The frequency for sampling, sampling chamber, metering device, sampling methods and analyses of samples shall be subject, at any time, to inspection and verification by the Environmental Services Utility.

**204.19.3 Monitoring Facilities** Each industrial user whose wastewater discharge(s) has by sampling of wastewater or other means of inspection been found to contain or have the potential to contain incompatible priority pollutants in amounts or concentration which may cause interference with the wastewater utility system process or operation, shall provide and maintain at all times a monitoring facility at each applicable building sewer discharge which will allow for inspection, sampling and flow measurement of the discharge to the POTW sewer line. Such monitoring facility shall be provided and maintained by the user on each building sewer discharge, which contains or has the potential to contain incompatible priority pollutants.

1. The monitoring facilities shall be located on the industrial user's premises, provided that if such location would be impractical or cause undue hardship to the industrial user, the Environmental Services Utility may allow the facility to be constructed in a public street or sidewalk area. Said facility shall be located so that samples may be taken safely and easily and shall not be obstructed by landscaping, parked vehicles or other activity of the industrial user.

2. Monitoring facilities located in public streets or sidewalks shall not obstruct the flow of traffic. All monitoring facilities must meet all local and Environmental Services Utility construction codes and must be approved by the Environmental Services Utility prior to construction.

3. There shall be ample room in and near such monitoring facilities to allow accurate sampling and monitoring equipment to be installed and to prepare samples for analysis. Such facilities shall be accessible to authorized representatives of the Environmental Services Utility at all times upon presentation of suitable identification provided that authorized representatives of the Environmental Services Utility personnel shall under exceptional circumstances have access upon presentation of suitable identification at any time discharges are occurring.

4. The entrance or manhole to such monitoring facilities shall be secured by a breakaway key type locking device installed by the Environmental Services Utility. The Environmental Services Utility shall have the only key to said locking device and have complete control of access to the monitoring facility. When required during the weekday hours of 7:00 AM to 3:30 PM by an industrial user, ESU personnel shall be available to open the monitoring facilities on 90 minute notice upon good cause shown. Alternative means of adequately securing such monitoring facilities may be approved by the Superintendent. This determination shall be made when requested by the industrial user.

5. The monitoring facilities shall contain the following equipment installed in a permanently fixed position by the industrial user:

a. A flow measuring device incorporated into the invert with approval by the Environmental Services Utility.

b. A source of electrical power to the monitoring facilities of sufficient voltage and amperage to operate all equipment in the sampling chamber. An appropriate device shall be installed by user to indicate a power failure and length of time of such failure. Such device shall be specified by the Environmental Services Utility and furnished by user.

6. Automatic composite sampling devices provided by the Environmental Services Utility shall be installed and operated in the monitoring facility on a 24 hour basis seven (7) days per week. Samples will be collected by Environmental Services Utility personnel five (5) days per week and analyzed on a routine basis. The Environmental Services Utility will provide a split of each sample taken from said monitoring facility upon written request of the industrial user.

**204.19.4 Inspection and Sampling** The Environmental Services Utility may inspect the facilities of any user to ascertain compliance with this Article. Persons or occupants of premises where a discharge source or treatment system is located or in which records are kept shall allow the Environmental Services Utility or its representative ready access upon presentation of credentials at all reasonable times to all parts of the premises for the purposes of inspection, sampling, examination and photocopying of records required to be kept by this ordinance or in the performance of any of their duties.

The ESU, IEPA, US EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with his security guards so that upon presentation of suitable identification, personnel from the Environmental Services Utility, IEPA, US EPA, will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Such arrangements shall be made by Users with their security guards within 30 days of the passage of this ordinance.

While performing the necessary work on private properties referred to in this Article, the duly authorized Environmental Services Utility personnel shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the Environmental Services Utility and the Environmental Services Utility indemnify the User against loss or damage to its property by Environmental Services Utility employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions. The Environmental Services

Utility and Industrial Users shall maintain records of all information resulting from any monitoring activities required by this ordinance and shall include:

1. The date, exact place, method and time of sampling and the names of the person or persons taking the samples;
2. The dates analyses were performed;
3. Who performed the analyses;
4. The analytical techniques/methods used and;
5. The results of such analyses.

The Environmental Services Utility and Industrial Users shall maintain such records for a minimum of three (3) years. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Industrial User or operation of the Environmental Services Utility pretreatment program or when requested by the Regional Administrator of the Director of IEPA.

**204.19.5 Right of Entry: Inspection and Sampling** The Superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

1. Where the user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent will be permitted to enter without delay for the purposes of performing specific responsibilities.
2. The Superintendent shall have the right to set up on the user's property, or require installation of, such devices as necessary to conduct sampling and/or metering of the user's operations.
3. The Superintendent may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.
4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be born by the user.

5. Unreasonable delays in allowing the Superintendent access to the user's premises shall be a violation of this ordinance.

**204.19.6 Search Warrants** If the Superintendent has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Superintendent may seek issuance of a search warrant from the Kankakee County Court of Kankakee.

**204.19.7 Pretreatment** Users shall provide necessary wastewater treatment as required to comply with this Article and shall achieve compliance with all applicable pretreatment standards within the time limitations as specified by regulations, statutes, and ordinances. Any facilities required to pre-treat wastewater to a level acceptable to the Environmental Services Utility shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Environmental Services Utility for review, and shall be acceptable to the Environmental Services Utility and IEPA before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Environmental Services Utility under the provisions of this Article. The user shall obtain all necessary construction and operating permits from IEPA. Such pretreatment facilities shall be under the control and direction of an IEPA certified Industrial Wastewater Treatment Plan Operator. Within a reasonable time after the completion of the pretreatment facility, the user shall furnish its operations and maintenance procedures to the Environmental Services Utility for review. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Environmental Services Utility prior to the user's initiation of the changes.

All records relating to compliance with categorical pretreatment standards shall be made available to the Approval Authority upon request.

**204.19.8 Confidential Information** Information and data relating to an industrial user obtained from reports, surveys, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Superintendent that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user under applicable State law. Copies of information from Environmental Services Utility files shall be provided to persons so requesting upon payment of a copy fee established by the Environmental Services Utility.

When requested by the person furnishing a report, and until such time as the information is determined not to be confidential by agreement between the Environmental Services Utility and the User, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to

governmental agencies for uses related to this ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, and the Pretreatment Programs, provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Information and data provided to the Environmental Services Utility which is effluent data shall be available to the public without restriction.

Information accepted by the Environmental Services Utility as confidential, shall not be transmitted to any governmentally agency by the Environmental Services Utility until and unless a 30-day notification is given to the user.

The Environmental Services Utility shall implement measures to prevent the negligent release of confidential information; however, neither the Environmental Services Utility nor its employees shall be held legally responsible for release of information if they have acted in good faith.

**204.19.9 Publication of Users in Significant Noncompliance** The Superintendent shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
3. Any other discharge violation that the Superintendent believes has caused, along or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
4. Any discharge of pollutants that have caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide with thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment

standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

7. Failure to accurately report noncompliance; or

8. Any other violation(s) which the Superintendent determines will adversely effect the operation or implementation of the local pretreatment program.

**204.19.10 Sludge Generated** Sludge, floats, skimmings, etc., generated by an industrial or commercial pretreatment system shall not be placed into the POTW. Such sludge shall be contained, transported, and disposed of by haulers in accordance with all federal, state, and local regulations.

## **DIVISION 205 - Administrative Enforcement Remedies**

**Sec. 34-205.1 Notification of Violation** When the Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may serve upon that user a written Notice of Violation. Within thirty (30) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

**Sec. 34-205.2 Administrative Proceedings** Whenever the Superintendent determines that wastewater is being or has been discharged into the POTW, and when, in the opinion of the Superintendent, such discharge violates this Article, the Superintendent shall by conference, conciliation or persuasion, make a reasonable effort to eliminate or remedy such violation. If these efforts have been unsuccessful, the Superintendent shall use an administrative enforcement remedy.

**Sec. 34-205.3 Consent Orders** The Superintendent may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such document shall have the same force and effect as the administrative orders issued pursuant to Sections of this ordinance and shall be judicially enforceable.

## **Sec. 34-205.4 Show Cause Hearing**

**205.04.1 Notice of Hearing** The Superintendent may request a show cause hearing. The City through its Adjudication Ordinance may order any user who causes or allows an unauthorized



discharge to enter the POTW to show cause why the proposed enforcement action should not be taken.

The City may order the hearing or may designate any of its members or officers or employees of the Environmental Services Utility to order the hearing. A notice shall be served on the user specifying the time and place of a hearing to be held by the City or its designated person regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the City or its designated person why the proposed enforcement action should not be taken. The notice of hearing shall be served personally or be mailed by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. The notice of the hearing may be served on any agent or officer of a corporation. A show cause hearing shall be a bar against, or prerequisite for, taking any other action against the user.

**205.04.2 Hearing Officials** The City shall designate a hearing officer to conduct the hearing and take the evidence to:

1. Issue in the name of the City notices of hearings requested the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
2. Take the evidence;
3. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.

**205.04.3 Transcripts** At any hearing held pursuant to this Article testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

**205.04.4 Issuance of Orders** After the City or its designated person has reviewed the evidence, it may issue an order to the user responsible for the discharge directing either: a) that the discharge permit be revoked and the service be disconnected or b) that following a specified time the permit shall be revoked and sewer service discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and operated properly to comply with the discharge permit or c) direct the User to cease the unauthorized discharge effective after a specified period of time or d) that such other relief as deemed necessary by the POTW to abate the discharge be granted. Further orders and directives as are necessary may be issued.

**Sec. 34-205.05 Compliance Orders** When the Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to

address the noncompliance, including self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

**Sec. 34-205.06 Emergency Suspensions** The Superintendent may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Superintendent may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

1. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless the termination proceedings in Section 34-205.09 of this ordinance are initiated against the user.

2. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Superintendent prior to the date of any show cause or termination hearing under Sections 205.04 or 205.09 of this ordinance.

**Sec. 34-205.07 Cease and Desist Orders** When the Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard requirement, or that the user's past violations are likely to recur, the Superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

1. Immediately comply with all requirements; and
2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

**Sec. 34-205.08 Administrative Fines**

1. When the Superintendent finds that a user has violated, or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may fine such user in an amount not to exceed \$1,000 a day. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

2. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed on additional penalty of ten percent (10%) of the unpaid balance and interest shall accrue thereafter at a rate of ten percent (10%) per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

3. Users desiring to dispute such fines must file a written request for the Superintendent to reconsider the fine along with full payment of the fine amount with ten (10) days of being notified of the fine. Where a request has merit, the Superintendent may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Superintendent may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

4. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

**205.09 Revocation of Wastewater Discharge Permit** Any user, who violates this Article, or applicable state and federal regulations, or the following, is subject to having his permit revoked in accordance with the procedures of this Section 34-205 of this Article:

1. Failure of a user to factually report the wastewater constituents and characteristics of his discharge as determined by the users or Environmental Services Utility analysis;

2. Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;

3. Refusal of reasonable access to the user's premises by USEPA, IEPA, or the Environmental Services Utility's representatives for the purpose of inspection and monitoring;

4. Tampering with, disrupting, or destroying Environmental Services Utility equipment as determined by the Environmental Services Utility, by a preponderance of evidence which determination shall be final;

5. Failure to report an accidental discharge of a pollutant in a reportable quantity;

6. Failure to report an upset of the User's pretreatment facilities;

7. Violation of conditions of this permit;
8. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
9. Falsifying self-monitoring reports;
10. Failure to meet effluent limitations;
11. Failure to pay fines;
12. Failure to pay sewer charges;
13. Failure to meet compliance schedules; or
14. Failure to complete a wastewater survey, or any other required report in section 204.

**205.10 Harmful Contributions** Notwithstanding any other section of this Article, the Environmental Services Utility may immediately suspend the wastewater treatment service and/or a wastewater discharge permit when such suspension is necessary, in the opinion of the Environmental Services Utility, in order to stop an actual or threatened discharge which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons, or which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW or causes the POTW to violate any condition of its NPDES Permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the user to comply voluntarily with the suspension order, the Environmental Services Utility shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The Environmental Services Utility shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Environmental Services Utility within 15 days of the date of occurrence.

**205.11 Legal Action** Notwithstanding any other sections of this Article, if any user discharges sewage, industrial wastes or other wastes into the sanitary sewers contrary to the provisions of this Article, Federal or state pretreatment requirements, or any order of the Environmental Services Utility, the Corporation Council may commence an action for appropriate legal and/or equitable relief in the Kankakee County Circuit Court.

**205.12 Variances**

**205.12.1 Authority** To the extent consistent with the applicable provisions of the Act and the Illinois Environmental Protection Act (Ch. 111 ½ Ill. Rev. Stat. 1983 §1001, et seq.), the Environmental Services Utility may grant individual variances beyond the limitations prescribed in Sec. 34-202.4 (Specific Pollutant Limitations) of this ordinance, provided that the Petitioner has demonstrated that failure to receive a variance would work an arbitrary or unreasonable hardship on the Petitioner and provided further that Petitioner has demonstrated that Petitioner will be in compliance by the end of the variance period granted. The burden of showing such arbitrary and unreasonable hardship shall be on Petitioner who shall, before such variance is granted, show such arbitrary and unreasonable hardship to the Environmental Services Utility by clear and convincing proof. In no case shall the Environmental Services Utility grant any variance whose terms might or could cause "interference" or "pass through" as such terms are defined in this ordinance.

**205.12.2 Conditions and Duration** In granting a variance, the Environmental Services Utility may impose such conditions, exceptions, time limitations, duration and other limitations as the policies of this ordinance, the Illinois Environmental Protection Act and the Act may require, including limitations that will assure that the Petitioner will be in compliance by the end of the variance period. Any variance granted by the Environmental Services Utility shall not exceed two (2) years and shall be granted upon the condition that the person who receives such variance shall make such periodic progress twice for up to two years each time by affirmative action of the Environmental Services Utility but only if satisfactory progress has been shown. However, no Petitioner shall receive any variances, including any extension, exceeding a combined total of five years for any specific pollutant.

**205.12.3 Petition and Hearing** Any person seeking a variance shall do so by filing a Petition for Variance with the Superintendent on forms provided by the Environmental Services Utility. Within 21 days receipt of the petition, notice of the petition shall be published in the local newspaper.

The Environmental Services Utility shall specify information required to be submitted by the Petitioner. To enable the Environmental Services Utility to rule on the Petitioner for Variance, the following information, where applicable, shall be included in the Petition:

1. A clear and complete statement of the precise extent of the relief sought, including specific identification of the particular provisions of the ordinance from which the variance is sought;
2. Data describing the nature and extent of the present failure to meet the numerical standards or particular provisions from which the variance is sought and a factual statement why compliance with the ordinances was not or cannot be achieved by the required compliance date;
3. A detailed description of the existing and proposed equipment or proposed method of control to be undertaken to achieve full compliance with the ordinance, including a time schedule for the implementation of all phases of the control program from initiation of

design to program completion and estimated costs involved for each phase and the total cost to achieve compliance;

4. Past efforts to achieve compliance including costs incurred, results achieved and permit status;

5. A discussion of the availability of alternate methods of compliance, the extent that such methods were studied, and the comparative factors leading to the selection of the control program proposed to achieve compliance;

6. A concise factual statement of the reasons the Petitioner believes that compliance with the particular provisions of the ordinance would impose an arbitrary or unreasonable hardship and;

7. Such other things as are required by the Environmental Services Utility.

**205.12.4 Time Limit for Action by the Environmental Services Utility** The Superintendent shall investigate such petition, consider the views of persons who might be adversely affected by the granting of a variance and make a report to the Environmental Services Utility with a recommendation as to the disposition of the petition. If the Environmental Services Utility in its discretion concludes that a hearing would be advisable or if the Environmental Services Utility or any other person files a written objection to the granting of such Variance within fifteen (15) days from the date of publication of the Petition in the local newspaper, then a hearing shall be held under the provisions of Sec. 34-205.4 of this ordinance. The burden of proof shall be on the Petitioner.

**205.12.5 Violation** If the limits of a variance are exceeded or if any terms of a variance are violated by the person granted a variance, a violation of this ordinance is deemed to have occurred, and the variance may be revoked on thirty (30) days notice.

**205.13 Appeal Procedures** In the event a User is dissatisfied with permit conditions, enforcement procedures, or sampling procedures established or used by the Environmental Services Utility as it applies to his discharge to the sanitary sewer, except as such dissatisfaction relates to proceeding under Sections 205.01 through 205.10 of this Article, that user shall seek relief through the use of the following administrative procedures. The procedure outlined herein is voluntary, and shall not act as a bar or condition precedent to the use of the Environmental Services Utility of any remedies provided herein. In order that problems or disputes may be resolved on the lowest practicable level; the procedures outlined below shall be followed in order.

**205.13.1 Initial Review of Complaint** User shall contact the Environmental Services Utility with his complaint or questions, and shall be referred to the appropriate department for initial screening, where the problem is routine in nature or requires only explanation, no further action will be taken.

**205.13.2 Manager's Review** Where a User is not satisfied with the response given by the appropriate department, the complaint or question shall be reduced to writing and referred to

management personnel, to be assigned by the Superintendent for review. The management personnel so designated shall review the file and consult with the User in an effort to resolve the problem. If the matter can be resolved to the User's satisfaction at this level, no further action will be required.

**205.13.3 Superintendent's Review** If the review and discussion between the management personnel and the User do not resolve the matter, a report on the complaint, together with the manager's recommendations, will be forwarded to the Superintendent for his consideration and decision. If the decision of the Superintendent resolves the matter, no further action will be required.

In the case of a User protesting a permit condition(s), the User, must file a petition for an appeal no later than 10 days after the date of issuance of the permit. If the appeal is timely, an informal hearing with the Superintendent shall be scheduled. The User shall be given an opportunity to present his case with evidence and/or expert opinion as to why the conditions of his permit should be changed. The Superintendent shall issue a written decision on the appeal. If the Superintendent's decision resolves the matter, no further action will be required.

**205.13.4 City's Review** If the findings and actions by the Superintendent do not satisfy the user, the entire file, together with recommendations from the Superintendent, shall be given to the City Council or its designated committee, which, after review of the file and recommendations of the Superintendent, shall meet with the User and review the complaint. Following the review of the file and discussion with the User, the City will make a final decision on the matter. In the case of a User protesting the Superintendent's decision of an appeal of a permit condition(s), the User must file a second petition for appeal no later than 10 days after the date of receipt of the Superintendent's written decision. The City will schedule a formal hearing after reviewing the file and recommendations of the Superintendent. The User shall be given an opportunity to present his case with evidence and/or expert opinion as to why the conditions of his permit should be changed. The City shall issue a formal decision which shall be published in the official minutes of the hearing.

## **205.14 Upsets**

**205.14.1 As a Defense for Noncompliance** An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred and the industrial user can identify the specific cause(s) of the upset;
2. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
3. The industrial user has submitted the following information to the Environmental Services Utility within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):

- a. A description of the indirect discharge and cause of noncompliance;
- b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue.
- c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

**205.14.2 Burden of Proof** In any enforcement proceeding the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

**205.14.3 User Responsibility in Case of Upset** The industrial user shall control production of all discharges to the extent necessary to maintain compliance with all applicable regulations upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

## **DIVISION 206 - PENALTIES AND COSTS**

**206.1 Civil Penalties** Any user who is found to have violated an order of the City Council or who has failed to comply with any provision of this Article, and orders, rules, regulations and permits issued hereunder, shall be fined in an amount not to exceed \$1,000 for each violation in accordance with the terms and provisions of the Illinois Municipal Code (Ill. Rev. Stat. Ch. 24, Sec. 1-2-1 et seq.). Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense and a separate offense shall be deemed to have occurred for each constituent listed in Sections 34-202.1, and 202.4 of this Article found to exceed the limits established in those Sections during any such day. In addition to the penalties provided herein, the Environmental Services Utility may recover reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Article or the orders, rules, regulations, and permits issued hereunder. In default of payment of such forfeiture and costs, said violator shall be imprisoned for a period not to exceed six months.

**206.2 Injunctive Relief** In addition to the fine levied upon conviction of a violator, the City Council may, where the circumstances of the particular case so dictate, direct the Corporation Council to seek injunctive relief to prohibit the User from discharging into the sanitary sewer system, to restrain violations of this ordinance or to provide such affirmative relief as may be appropriate.

**206.3 Costs of Damage** Any user violating any of the provisions of this Article or who has a discharge which causes a deposit, obstruction, damage or other impairment to the sanitary sewers shall become liable to the Environmental Services Utility for any expense, loss, or damage caused by the violation or discharge. The Environmental Services Utility may add to the user's charges and fees the cost assessed for any cleaning, repair, or replacement work caused by the



violation or discharge. Any refusal to pay the assessed costs shall constitute a violation of this Article.

**206.4 Falsifying Information** Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintain pursuant to this Article, or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitory device or method required under this Article, shall upon conviction be punished by a fine in an amount not to exceed \$1,000. In default of payment the violator shall be imprisoned for a period not more than six months.

#### **206.5 Revocation of Sewer Service**

**206.5.1 Conditions for Revocation** Any User who violates this ordinance, its permit, the Illinois Environmental Protection Act or the Federal Act, or regulations promulgated under either act, or any of the following, is subject to having its permit revoked in accordance with the procedures of this Section:

1. Failure of a User to factually report the wastewater constituents and characteristics of its discharge as determined by the User's or Environmental Services Utility 's analysis;
2. Failure of the User to report significant changes in process activity or wastewater constituents and characteristics;
3. Refusal of reasonable access to the User's premises by Environmental Services Utility representatives for the purpose of inspection or monitoring; or
4. Tampering with, disrupting, or destroying Environmental Services Utility equipment;
5. Failure to report an accidental discharge of a pollutant;
6. Failure to report an upset of User's treatment facilities;
7. Violations of conditions of the permit;
8. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
9. Falsifying self-monitoring reports;
10. Failure to meet effluent limitations;
11. Failure to pay fines;
12. Failure to pay sewer charges;

13. Failure to meet compliance schedules;
14. Failure to complete a wastewater survey, or any other required reports in section 204.3.

#### **206.5.2 Procedures for Revocation**

1. The Superintendent may order any User who causes or allows any action which is subject to revocation under Section 34-206.5 above to show cause before the City Council why its permit should not be revoked. A notice shall be served on the User specifying the time and place of a hearing to be held by the City Council regarding the violation, the reasons why the action is to be taken, the proposed action, and directing the User to show cause before the City Council why its permit should not be revoked. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least 10 days before the hearing. Service may be made on any agent or officer of a corporation.
2. The City Council may itself conduct the hearing and take the evidence, or may designate any of its members or its attorney to:
  - a. Issue in the name of the City Council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;
  - b. Take the evidence;
  - c. Transmit a report of the evidence and hearing, including transcripts and other evidence together with recommendations to the City Council for action thereon.
3. At any hearing held pursuant to this ordinance, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual copying charges therefore.
4. After the City Council has reviewed the evidence, it may issue an order to the User responsible for the discharge directing either:
  - a. That the discharge permit be revoked and the service be disconnected;
  - b. That following a specified time the permit shall be revoked and sewer service discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and operated properly to comply with the discharge permit;
  - c. Direct the User to cease the unauthorized discharge effective after a specified period of time;

d. That such other relief as deemed necessary by the City Council to abate the discharge be granted. Further orders and directives as are necessary may be issued.

5. Following an order of revocation, the User shall cease discharging to the City. Failure to do so shall be evidence of continuing harm to the sanitary sewers and provide grounds for the granting of injunctive relief or temporary restraining orders.

**Sec. 34-206.6 Other Remedies** The remedies herein above provided shall not be exclusive and the City may seek whatever other remedies are authorized by statute, at law or in equity against any person violating the provisions of this ordinance.